



# Town of Merrimack, New Hampshire

Community Development Department  
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Planning - Zoning - Economic Development - Conservation

## **MEMORANDUM**

**Date:** July 15, 2015  
**To:** Robert Best, Chairman, & Members, Planning Board  
**From:** Jillian M. Harris, AICP, Planning & Zoning Administrator  
**Subject:** **Button Homes, LLC. (applicant) and Donna Kazmirchuk (owner)** – Request to amend previously granted conditional approval from the April 7, 2015 Planning Board for a minor subdivision of one lot into two single-family residential lots located at 71 Bedford Road in the R (Residential) and Aquifer Conservation Districts. Tax Map 6D, Lot 090.

**Background:** *This item is continued from the June 2, 2015 Planning Board meeting.* The subject property is an approximately 2.6 acre parcel located at 71 Bedford Road in the R-4 (Residential) District with an existing single family residence and two accessory structures. The property is currently serviced by municipal water (MVD) and sewer.

The applicant has received conditional final approval to subdivide the existing lot into two single family house lots. Please see the attached memo and decision letter from the April 7, 2015 Planning Board meeting. The applicant would like to discuss and resolve outstanding conditions listed on the conditional final approval letter, dated April 10, 2015. The abutting property owner at 67 Bedford Road has not agreed to the required drainage pipe/culvert easement and final approval cannot be obtained without fulfilling this condition.

At the June 2, 2015 Planning Board meeting the Board gave the applicant the option of submitting a drainage analysis, with peer review, to ensure compliance with the regulations in lieu of obtaining the required easement from the original approval. The applicant has elected to take this option and the drainage analysis and addendum are attached along with CLD peer review comments. Staff recommends that the applicant obtain flow easement rights, as recommended by CLD, so that the subject parcels are provided some assurance that the flow rights across the parcel will continue in the future.

**Waivers:** The applicant was granted a sidewalk waiver per Section 4.06.1(r) of the Subdivision and Site Plan Regulations at the April 7, 2015 Planning Board meeting.

**Recommendation:** Should the Board determine that any new waivers are required for the subdivision, Staff recommends that the Board vote with respect to any requested waivers utilizing the criteria from RSA 674:36:

- Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or

- Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

**The planning staff recommends that if the Board amends the previously granted conditional final approval, it do so utilizing the following precedent conditions (to replace those from the April 7, 2015 Approval) to be fulfilled within 6 months and prior to plan signing, unless otherwise specified:**

1. Final plans to be signed by the Applicant and Property Owner;
2. Any waivers granted shall be listed with the section number and date of approval on the Final Plan;
3. Applicant to provide flowage rights easement as recommended by staff and CLD peer review comments, in a form acceptable to the Community Development Department and Town legal counsel;
4. Applicant shall obtain a variance from the Zoning Board of Adjustment for structures to remain within the 25' no-disturb wetland buffer per Section 2.02.7.A.7(b) of the Zoning Ordinance (or remove the structures prior to issuance of any Building permits for the 2 lots);
5. Applicant shall address the following comments from the Department of Public Works:
  - a. The proposed sewer easement is on property owned by Bedford Road Baptist Church – the easement is not to be granted to the town as it serves to connect sewer service from the house;
  - b. In accordance with Section 4.18, bounds need to be installed at all appropriate points along Bedford Road;
  - c. Where the property line is less than 25' from the centerline of Bedford Road, a sight distance easement of 25' from Bedford Road centerline shall be granted to the Town;
  - d. In accordance with Section 4.12, the sight distance shown on the plans should be a minimum of 275' but 325' is desired;
6. Address comments from the Fire Department, as applicable, including future addressing requirements;
7. Address comments from the Conservation Commission (as applicable);
8. Address bulleted items from page 3 of CLD peer review memo ("suggested items to be provided/updated/corrected for the record");
9. Address planning staff technical comments. (Below)

**Planning Staff Technical Comments**

1. Applicant to add a note to the plan indicating which sheets are to be recorded at HCRD and that a full set is on file with the Community Development Department;
2. Applicant to clarify Note #6 on Sheet 1 to correct grammar and clarify intent.

**Staff also recommends that the following general and subsequent conditions be placed on the approval:**

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
3. Address the following comments from Merrimack Village District:
  - a. When the applicant is ready they need to come in and fill out the entrance application, pay their Entrance Fee and SDC charge, and we can schedule when to install the service.

Ec: Button Homes, LLC / Brian Button and Laurie DesRochers, Applicant  
Donna Kazmirchuk, Owner  
Earl Sanford, Land Surveyor  
Carol Miner and Fred Kelly, Building Department  
Kyle Fox, Deputy Director of Public Works/Town Engineer  
John Manuele, Captain, Merrimack Fire Department  
Loren Martin, Assessing Department

Cc: Planning Board File  
Correspondence